

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

OP.No. 32839 of 2000(H)

PETITIONER:

1. PAKKADA ABDUL RAHIMAN, S/O. ALI, PAKKADA HOUSE,
KAKKAD, TIRURANGADI, MALAPPURAM DISTRICT.
BY POWER OF ATTORNEY HOLDER PAKKADA MOHAMMED.
2. M.ABDUL NAZER, MANJAMATTIL VEEDU, CHEROOR.P.O.,
MALAPPURAM DISTRICT. BY POWER OF ATTORNEY HOLDER
PAKKADA MOHAMMED.

BY ADV. SRI.M.RAMESH CHANDER
SRI.P.RAGHUNATH

RESPONDENTS:

1. ASSISTANT COMMISSIONER OF INCOME TAX,
INVESTIGATION CIRCLE I, KOZHIKKODE.
2. JOINT COMMISSIONER OF INCOME TAX,
CALICUT RANGE, CALICUT.
3. COMMISSIONER OF INCOME TAX, CALICUT.
4. UNION OF INDIA REPRESENTED BY CHAIRMAN,
CENTRAL BOARD OF DIRECT TAXES, NEW DELHI.

BY ADV. SRI.P.K.R.MENON(SR.),SC FOR IT
SHRI.GEORGE K GEORGE, SC, FOR IT.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 04/12/2007 , THE COURT ON 04/12/2007 DELIVERED THE
FOLLOWING:

O.P.NO. 32839/2000

ORDER ON CMP NO. 56039/2000 IN O.P.NO. 32839/2000 &
ORDER ON CMP NO.12997/2002 IN O.P.NO. 32839/2000

DISMISSED.

04/12/2007

SD/-(C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

- P1 : COPY OF ASSESSMENT ORDER FOR 1988-89 DATED 07/03/1991.
- P2 : COPY OF ORDER IN ITA NO.29/C-1/CIT/91-92 DATED 21/02/1992.
- P3 : COPY OF ORDER IN ITA NO.24/C-1/CIT/91-92 DATED 31/03/1992.
- P4 : COPY OF REQUEST FOR REFUND DATED 04/02/1998 SUBMITTED TO THE FIRST RESPONDENT.
- P5 : COPY OF REQUEST FOR REFUND DATED 05/08/1998 MADE TO 1ST RESPONDENT.
- P6 : COPY OF REQUEST FOR REFUND DATED 04/02/1998 TO THE THIRD RESPONDENT.
- P7 : COPY OF INTIMATION DATED 06/05/1999 FROM THE THIRD RESPONDENT.
- P8 : COPY OF NOTICE ISSUED BY INCOME TAX OFFICER, WARD-1, TIRUR TO 1ST PETITIONER DATED 17/09/2001.
- P9 : COPY OF NOTICE ISSUED BY INCOME TAX OFFICER, WARD - 1, TIRUR TO 2ND PETITIONER DATED 17/09/2001.

RESPONDENT'S EXHIBITS

- R1(A) : COPY OF NOTICE ISSUED UNDER SEC. 148 WHICH WAS RETURNED UNSERVED.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 32839 of 2000

Dated, this the 4th day of December, 2007

J U D G M E N T

This original petition is filed challenging notices proposing assessment for the year 1989-90. It is now reported that assessment is completed and petitioners have filed appeal against the same. If appeal is filed within time, petitioners are certainly entitled to raise ground of limitation, which is the ground on which original petition is filed challenging notices. However, learned counsel for the petitioners submitted that appeal is treated as defective for non-payment of institution fee, which the petitioners have not paid for want of PAN number. In view of the nature of dispute, I direct the Commissioner of Income Tax (Appeal) to receive the fees through Demand Draft produced by the petitioners, and as and when payment of institution fee is made, the Commissioner (Appeals) will number the appeal and hear the petitioners on merits and decide the matter without any delay. It is open to the petitioners to raise additional ground in appeal. This original petition is closed leaving freedom to the petitioners to raise all the issues, raised in this original petition, in appeal.

I make it clear that this judgment should not be interpreted to mean that petitioners are not liable to take PAN numbers, if they are otherwise liable.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg